

IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND SHRI A.K.GARODIA, ACCOUNTANT MEMBER

ITA No. 201/BANG/2018
Assessment year: 2014-15

M/s KHT Agencies Pvt. Ltd. No.10, Pallavi Complex Subbaiah Circle, Mission Road, Bangalore - 560027 PAN: AAACK 6822R	Vs.	The Income Tax Officer, Ward 4(1)(2). Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Harsha K.M, CA.
Respondent by	:	Smt R. Premi, JCIT(DR)(ITAT),Bengaluru.

Date of hearing	:	11.03.2020
Date of Pronouncement	:	20.03.2020

ORDER

Per N.V. Vasudevan, Vice President

This appeal by the assessee is against the order dated 29.11.2017 of the CIT(Appeals)-12, Bengaluru relating to assessment year 2014-15.

2. The assessee is a company engaged in the business of acting as authorised dealers in automobiles. For the AY 2014-15, the assessee filed a return of income declaring total income of Rs.6,02,588. The assessment was, however, completed by the AO by adding a sum of Rs.57,68,536 to the income declared by the assessee. The sum so added was liability

shown in the balance sheet under the head 'deferred revenue expenditure'. This was reduced from the business income declared by the assessee. The plea of the assessee was rejected. It was the plea of the assessee that the aforesaid sum was incurred for carrying out improvements of the assessee's showroom which is a leased premises. It was the plea of assessee that since the expenses were not capital in nature being laying of tiles, cupboard, civil work and interior, the same was revenue expenditure and should be allowed as a deduction. The assessee also pointed out that in its books of account, the assessee capitalised these expenses and wanted to claim it over a period of five years, but while computing total income for the purpose of Income-tax Act, 1961 [the Act], the entire expenditure being revenue expenditure was claimed as deduction. The AO, however, held that expenses were capital in nature and cannot be allowed as a deduction.

3. The assessee claimed depreciation under Explanation 1 to section 32 of the Act on the expenditure incurred by it in carrying out renovation, but that was also denied by the AO for the reason that during the previous year, the asset was not put to use.

4. Against the order of the AO, the assessee preferred appeal before the CIT(Appeals). The CIT(Appeals) passed *ex parte* order and confirmed the order of AO. It is an admitted position that in AY 2013-14, similar item of expenditure was disallowed by the AO and confirmed by the CIT(Appeals) in his order dated 20.1.2017. The CIT(A) also refused to allow depreciation as the assessee did not establish user of the premises for the purpose of business during the relevant previous year. The assessee has filed the present appeal against the aforesaid order of the CIT(Appeals).

5. The crux of the submission made before us was restricted to allowance of depreciation on expenditure incurred in renovation under Explanation (1) to section 32 of the Act. It was the plea of the Id. counsel for the assessee that since the order of CIT(Appeals) was an *ex parte* order, necessary evidence to show the user of premises for the purpose of business could not be filed before the CIT(A).

6. Accepting the submission made by the Id. counsel for the assessee across the Bar, we are of the view that the assessee should be afforded an opportunity of being heard by the CIT(Appeals) to the limited extent of establishing the assessee's claim for depreciation. The order of the CIT(Appeals) is accordingly set aside and restored back to the CIT(Appeals) to decide the aforesaid limited issue after affording opportunity of being heard to the assessee.

7. In the result, the appeal of the assessee is treated as partly allowed for statistical purposes.

Pronounced in the open court on this 20th day of March, 2020.

Sd/-
(A.K.GARODIA)
ACCOUNTANT MEMBER

Sd/-
(N V VASUDEVAN)
VICE PRESIDENT

Bangalore,
Dated, the 20th March, 2020.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar
ITAT, Bangalore.